

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 379 be amended to read as follows:

- 1 Page 2, delete lines 22 through 26.
- 2 Page 2, line 32, delete "A" and insert "**Subject to section 4.5 of this**
- 3 **chapter a**".
- 4 Page 2, line 32, reset in roman "merchant".
- 5 Page 2, line 32, delete "cigarette".
- 6 Page 2, line 33, delete "manufacturer".
- 7 Page 2, line 35, reset in roman "merchant:".
- 8 Page 2, line 35, delete "cigarette manufacturer:".
- 9 Page 3, line 18, after "(a)" insert "**This section applies to a**
- 10 **merchant that is not a cigarette manufacturer.**
- 11 **(b)**".
- 12 Page 3, line 18, delete "(c)," and insert "**(d)**".
- 13 Page 3, line 22, delete "(b)" and insert "**(c)**".
- 14 Page 3, line 23, delete "(a):" and insert "**(b):**".
- 15 Page 3, line 30, delete "(c)" and insert "**(d)**".
- 16 Page 3, line 34, reset in roman "merchant".
- 17 Page 3, line 35, delete "cigarette manufacturer".
- 18 Page 4, line 18, reset in roman "merchant".
- 19 Page 4, line 18, delete "cigarette".
- 20 Page 4, line 19, delete "manufacturer".
- 21 Page 4, line 25, reset in roman "merchant".
- 22 Page 4, line 25, delete "cigarette manufacturer".
- 23 Page 4, line 28, reset in roman "merchant".
- 24 Page 4, line 28, delete "cigarette manufacturer".
- 25 Page 4, line 35, reset in roman "merchant".

- 1 Page 4, line 36, delete "cigarette manufacturer".
- 2 Page 4, line 36, reset in roman "merchant's".
- 3 Page 4, line 36, after "merchant's" delete "cigarette".
- 4 Page 4, line 37, delete "manufacturer's".
- 5 Page 4, line 41, reset in roman "merchant:".
- 6 Page 4, line 41, delete "cigarette manufacturer:".
- 7 Page 5, line 8, reset in roman "merchant".
- 8 Page 5, line 9, delete "cigarette manufacturer".
- 9 Page 5, line 11, reset in roman "merchant's".
- 10 Page 5, line 12, delete "cigarette manufacturer's".
- 11 Page 5, line 14, reset in roman "merchant".
- 12 Page 5, line 14, delete "cigarette manufacturer".
- 13 Page 5, line 26, reset in roman "merchant".
- 14 Page 5, line 26, delete "cigarette manufacturer".
- 15 Page 5, line 30, reset in roman "merchant".
- 16 Page 5, line 31, delete "cigarette manufacturer".
- 17 Page 5, line 41, reset in roman "merchant".
- 18 Page 5, line 41, delete "cigarette manufacturer".
- 19 Page 5, line 42, reset in roman "merchant".
- 20 Page 5, line 42, delete "cigarette".
- 21 Page 6, line 1, delete "manufacturer".
- 22 Page 6, line 34, reset in roman "merchant".
- 23 Page 6, line 34, delete "cigarette manufacturer".
- 24 Page 6, between lines 39 and 40, begin a new paragraph and insert:
- 25 "SECTION 13. IC 24-3-5.4-14 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Not later than
- 27 July 1 of each year, the attorney general shall make available to the
- 28 public by publishing on accessIndiana (as defined in IC 5-21-1-1.5) a
- 29 directory listing all brand families listed in certifications filed under
- 30 section 13 of this chapter.
- 31 (b) A directory described in subsection (a) shall not include the
- 32 name or brand families of a nonparticipating manufacturer:
- 33 (1) that fails to comply with section 13 of this chapter; or
- 34 (2) whose certification fails to comply with section 13(c) or 13(e)
- 35 of this chapter, unless the attorney general determines that the
- 36 failure has been remedied.
- 37 (c) The directory may not include a tobacco product manufacturer
- 38 or a brand family if the attorney general concludes that:
- 39 (1) in the case of a nonparticipating manufacturer, all escrow
- 40 payments required under IC 24-3-3-12 for any period for any
- 41 brand family, whether or not listed by the nonparticipating
- 42 manufacturer, have not been fully paid into a qualified escrow
- 43 fund governed by a qualified escrow agreement that has been
- 44 approved by the attorney general; or
- 45 (2) all outstanding final judgments, including interest on the
- 46 judgments, for violations of IC 24-3-3 have not been fully
- 47 satisfied for the tobacco product manufacturer or brand family.

(d) The attorney general shall update the directory as necessary to correct mistakes or to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this chapter.

(e) The attorney general shall post in the directory and transmit by electronic mail or other means to each distributor or stamping agent notice of any removal from the directory of a tobacco product manufacturer or brand family not later than thirty (30) days before the attorney general removes the tobacco product manufacturer or brand family from the directory.

(f) Unless otherwise provided in an agreement between a tobacco product manufacturer and a distributor or stamping agent, a distributor or stamping agent is entitled to a refund from a tobacco product manufacturer for any money paid by the distributor or stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that:

(1) are in the possession of the distributor or stamping agent on;
or

(2) the distributor or stamping agent receives from a retailer after; the date on which the tobacco product manufacturer or brand family is removed from the directory.

(g) Unless otherwise provided in an agreement between a retailer and a distributor, stamping agent, or tobacco product manufacturer, a retailer is entitled to a refund from a distributor, stamping agent, or tobacco product manufacturer for any money paid by the retailer to the distributor, stamping agent, or tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that are in the possession of the retailer on the date on which the tobacco product manufacturer or brand family is removed from the directory.

(h) The attorney general shall not restore a tobacco product manufacturer or brand family to the directory until the tobacco product manufacturer pays a distributor, stamping agent, or retailer any refund due under subsection (f) or (g).

(i) A distributor or stamping agent shall provide and update as necessary an electronic mail address to the attorney general for purposes of receiving a notification required by this chapter.

(j) The failure of a distributor or stamping agent to receive notice under subsection (e) or the failure of the attorney general to provide notice of any removal from the directory of a tobacco product manufacturer or brand family under subsection (e) does not relieve the distributor or stamping agent of its obligations under this chapter.

SECTION 14. IC 24-3-5.4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A person may not:

(1) affix a stamp to a package or other container of cigarettes; or

(2) sell, or offer or possess for sale, or import for personal consumption in Indiana cigarettes;

1 of a tobacco product manufacturer or brand family that is not listed in
 2 a directory under section 14 of this chapter.

3 SECTION 15. IC 24-3-5.4-17 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) This section
 5 applies after July 31, 2003.

6 (b) Not later than January 20, April 20, July 20, and October 20 of
 7 a calendar year, **or more frequently if ordered by the department,**
 8 **the commission, or the attorney general,** a distributor or stamping
 9 agent shall submit the following information to the department, the
 10 commission, and the attorney general:

11 (1) A list by brand family of the total number of cigarettes for
 12 which the distributor or stamping agent affixed stamps or
 13 otherwise paid taxes during the immediately preceding three (3)
 14 months.

15 (2) Any other information required by the department or the
 16 attorney general.

17 The distributor or stamping agent shall maintain and make available to
 18 the department, the commission, and the attorney general for a period
 19 of five (5) years all invoices and documentation of sales of all
 20 nonparticipating manufacturer cigarettes and any other information that
 21 the distributor or stamping agent relied on in reporting to the
 22 department, the commission, and the attorney general.

23 (c) The attorney general may require a distributor or a tobacco
 24 product manufacturer to submit additional information to determine
 25 whether a tobacco product manufacturer is in compliance with this
 26 chapter. The additional information may include samples of the
 27 packaging or labeling of each of the tobacco product manufacturer's
 28 brand families."

29 Renumber all SECTIONS consecutively.

(Reference is to ESB 379 as printed March 29, 2005.)

Representative Cherry